

Message Text

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ORIGIN NEA-10

INFO OCT-01 AF-10 EUR-12 EA-07 IO-13 ISO-00 L-03 EB-07
H-01 COME-00 SIG-01 SS-15 NSC-05 SP-02 CIAE-00
INR-07 NSAE-00 /094 R

DRAFTED BY NEA/RA:DTMORRISON:BDF
APPROVED BY NEA:SSOBER
NEA/RA:SEPALMER, JR.
L/NEA:DSMALL
EB:AWATSON (SUBS)
H:RFLATEN
COMMERCE:MSCHWECHTER
COMMERCE/CAGNE:JHEARN

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R 182227Z JUN 77
FM SECSTATE WASHDC
TO AMEMBASSY ABU DHABI
AMEMBASSY AMMAN
AMEMBASSY BEIRUT
AMEMBASSY DAMASCUS
AMEMBASSY DOHA
AMEMBASSY JIDDA
AMEMBASSY KHARTOUM
AMEMBASSY KUWAIT
AMEMBASSY MANAMA
AMEMBASSY MUSCAT
AMEMBASSY SANA
AMEMBASSY TRIPOLI
USINT BAGHDAD
INFO AMEMBASSY ALGIERS
AMEMBASSY RABAT
AMEMBASSY TUNIS
AMEMBASSY MOGADISCIO
AMEMBASSY NOUAKCHOTT
AMEMBASSY BONN
AMEMBASSY LONDON
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AMEMBASSY OTTAWA
AMEMBASSY TOKYO
AMEMBASSY PARIS
AMEMBASSY ROME
USMISSION USUN NEW YORK
AMCONSUL ALEXANDRIA
AMCONSUL DHAHRAN
AMEMBASSY ATHENS
AMEMBASSY TEL AVIV
AMEMBASSY BRUSSELS

C O N F I D E N T I A L STATE 142390

USEEC, USOECD & EMB

E.O. 11652: GDS

TAGS: ETRD, PFOR

SUBJECT: ARAB BOYCOTT: FURTHER REPRESENTATIONS CONCERNING
U.S. ANTI-BOYCOTT LEGISLATION

REF: A) STATE 43693; B) STATE 80062; C) STATE 86310

1. ON JUNE 7 AND JUNE 10, RESPECTIVELY, THE SENATE AND HOUSE PASSED THE CONFERENCE VERSION OF THE EXPORT ADMINISTRATION ACT CONTAINING COMPROMISE ANTI-BOYCOTT PROVISIONS. PRESIDENT IS EXPECTED TO SIGN EXPORT ADMINISTRATION ACT INTO LAW IN COMING WEEK.

2. OVER PAST FOUR MONTHS, ADMINISTRATION AND CONGRESS HAVE COOPERATED IN DEVELOPING CAREFULLY DIRECTED NON-CONFRONTATIONAL LEGISLATION INTENDED TO CURB FOREIGN BOYCOTT INTRUSIONS INTO U.S. COMMERCE WHILE PROTECTING OTHER MAJOR U.S. INTERESTS SUCH AS FURTHERING A COOPERATIVE APPROACH TO PEACEMAKING IN MIDDLE EAST. THE COMPROMISE REACHED BETWEEN
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THE ADMINISTRATION AND THE CONGRESS WITH HELP FROM BUSINESS ROUNDTABLE AND KEY JEWISH GROUPS SEEKS TO AVOID CONFRONTING BOYCOTTING COUNTRIES OVER EXERCISE OF THEIR SOVEREIGN RIGHT TO BOYCOTT THIRD COUNTRIES OR TO REGULATE THEIR OWN COMMERCE, INCLUDING SOURCE OF THEIR IMPORTS AND DESTINATION OF THEIR EXPORTS. AT THE SAME TIME, THE NEW LEGISLATION

WILL TAKE U.S. SUPPLIERS OUT OF THE ROLE OF AGENT OR PARTICIPANT IN BOYCOTT ACTIONS DIRECTED AGAINST A THIRD COUNTRY OF ANOTHER (BLACKLISTED) FIRM.

3. IT IS URGENT THAT BOYCOTTING COUNTRIES UNDERSTAND INTENT AND CONTENT OF NEW LAW SO THAT THEY MAY BEGIN TO MAKE ACCOMMODATIONS CONSISTENT WITH IT. ACCORDINGLY, EACH ACTION ADDRESSEE IS REQUESTED TO APPROACH SENIOR HOST GOVERNMENT OFFICIAL(S) AT EARLY DATE TO EXPLAIN THE SUCCESS WHICH THIS ADMINISTRATION HAS HAD IN SHAPING THE FINAL LEGISLATION IN NON-CONFRONTATIONAL TERMS. ALTHOUGH FORMAL INTERPRETATION OF THE NEW LAW MUST AWAIT THE WRITING OF COMMERCE DEPARTMENT REGULATIONS, THE SHAPE OF CHANGES WHICH WILL BE REQUIRED IN U.S. BUSINESS PRACTICES HAS BEEN NOTED IN REFERENCE CABLES DESCRIBING DRAFT LEGISLATION AND ITS LIKELY IMPLICATIONS. FOLLOWING KEY CHANGES IN BOYCOTTING COUNTRY PRACTICES WOULD OBVIATE POTENTIAL PROBLEMS:

(A) FURTHER SHIFT TO USE OF NORMAL COMMERCIAL DOCUMENTATION IN TENDERS, PREQUALIFICATION APPLICATIONS, LETTERS OF CREDIT, SHIPPING DOCUMENTS, CONTRACTS, PATENT/TRADEMARK REGISTRATIONS, ETC. (B) ACCEPTANCE OF FACT THAT U.S. FIRMS WILL BE UNABLE TO FILL OUT BOYCOTT QUESTIONNAIRES OR RESPOND TO OTHER BOYCOTT INQUIRIES RE PAST OR PROSPECTIVE BUSINESS DEALINGS WITH BOYCOTTED COUNTRY OR WITH BLACKLISTED FIRMS AND (C) END OF EXPECTATION THAT U.S. SUPPLIERS MIGHT PLAY ACTIVE PART IN BOYCOTT-RELATED SELECTION OF GOODS OR COMPONENTS. (FURTHER GUIDANCE WILL BE PROVIDED AS PROGRESS IS MADE IN PREPARING COMMERCE REGULATIONS.)

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4. WE BELIEVE REPRESENTATIONS TO POLICYMAKING OFFICIALS IN HOST COUNTRIES OFFER BEST CHANCE OF ELICITING UNDERSTANDING AND DESIRED DECISIONS OF BOYCOTTING GOVERNMENTS. WE RECOGNIZE THAT DIRECT CONTACTS BY EMBASSIES WITH LOCAL BOYCOTT OFFICIALS IN HOST COUNTRY MINISTRIES OR BY EMBASSY DAMASCUS WITH CENTRAL BOYCOTT OFFICE OFFICIALS MAY ALSO BE HELPFUL ON OCCASION IN THIS REGARD. ACCORDINGLY, POSTS MAY HENCEFORTH, AT THEIR DISCRETION, MAKE DIRECT CONTACTS WITH BOYCOTT OFFICIALS IF DEEMED USEFUL IN PROMOTING U.S. INTERESTS UNDER NEW LEGISLATION. WHILE DIALOGUE WITH BOYCOTT OFFICIALS MAY SERVE TO EXPLAIN DETAILS OF U.S. LAW AND REGULATION, POSTS SHOULD USE CARE TO ENSURE THAT CONTACTS, IF ANY, DO NOT IMPLY U.S. CONDONEMENT OF BOYCOTT PRACTICES DIRECTED AT U.S. FIRMS (OR AT COUNTRIES WITH WHICH WE MAINTAIN FRIENDLY RELATIONS). POSTS ALSO SHOULD AVOID BEING USED AS CONDUIT BY BOYCOTT OFFICES OR BY U.S. FIRMS FOR SUPPLY OF BOYCOTT-TYPE INFORMATION WHICH ALL U.S. PERSONS WILL BE PROHIBITED FROM SUPPLYING TO BOYCOTT OFFICES.

5. FOLLOWING STATEMENT DESCRIBES THE DIMENSIONS OF THE NEW LAW FOR YOUR USE AS YOU CONSIDER APPROPRIATE IN DISCUSSIONS WITH HOST COUNTRY OFFICIALS. YOU SHOULD CONTINUE TO PROVIDE DETAILED REPORTING ON RESPONSES TO EMBASSY REPRESENTATIONS AND ON THE GENERAL REACTION OF ARAB COUNTRIES TO NEW LAW.

6. BEGIN STATEMENT: U.S. EXPORT ADMINISTRATION ACT PROVISIONS RELATING TO FOREIGN BOYCOTT PRACTICES

FACED WITH LEGISLATIVE BILLS WHICH IN SOME RESPECTS CONFRONTED THE EXERCISE OF RIGHTS BY FOREIGN COUNTRIES TO REGULATE THEIR OWN EXPORTS AND IMPORTS, THE ADMINISTRATION HAS WORKED CLOSELY WITH THE CONGRESS, THE AMERICAN BUSINESS COMMUNITY AND OTHER INTERESTED GROUPS ON BEHALF OF A CONSENSUS SUPPORTING CAREFULLY DIRECTED, NON-CONFRONTATIONAL

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LEGISLATION. THE RESULTING COMPROMISE SEEKS TO CURB THE INTRUSIONS OF FOREIGN BOYCOTT PRACTICES INTO U.S. COMMERCE, ESPECIALLY OF THOSE SECONDARY BOYCOTT PRACTICES WHICH WOULD PREVENT A U.S. FIRM FROM DEALING WITH ANOTHER FIRM OR WITH A THIRD COUNTRY WITH WHICH THE UNITED STATES HAS FRIENDLY RELATIONS. THE NEW LEGISLATION APPLIES TO FOREIGN BOYCOTT PRACTICES GENERALLY AS THEY AFFECT U.S. COMMERCE, AND IS NOT DIRECTED AGAINST ANY SPECIFIC COUNTRY OR GROUP OF COUNTRIES.

THE BROAD-BASED SUPPORT IN THE UNITED STATES FOR THE NEW LEGISLATION IS REFLECTED IN THE OVERWHELMING BACKING GIVEN TO THE EXPORT ADMINISTRATION ACT BY THE U.S. SENATE AND HOUSE OF REPRESENTATIVES.

THE NEW U.S. LEGISLATION RECOGNIZES THE SOVEREIGN RIGHT OF ALL COUNTRIES TO REGULATE THEIR OWN COMMERCE; IT ALSO REFLECTS A BELIEF THAT A COOPERATIVE APPROACH TO WORKING OUT UNITED STATES DIFFERENCES WITH OTHER COUNTRIES OVER BOYCOTT ISSUES IS IMPORTANT IN ORDER TO ADVANCE SHARED INTERESTS WHICH ARE SERVED BY A CONTINUED EXPANSION OF TRADE AND OTHER ECONOMIC RELATIONS.

SPECIFICS OF NEW LEGISLATION

THE LEGISLATION PREEMPTS ALL STATE ANTI-BOYCOTT STATUTES--ENDING THE CONFUSING AND AT TIMES DISRUPTIVE

PATTERN OF ATTEMPTED STATE REGULATION OF BOYCOTT PRACTICES.

IN GENERAL, U.S. FIRMS WILL BE REMOVED FROM ANY ACTIVE ROLE AS TO THE ENFORCEMENT OF FOREIGN BOYCOTTS DIRECTED AGAINST COUNTRIES WITH WHICH WE MAINTAIN FRIENDLY RELATIONS.

90 DAYS ARE ALLOWED FOR THE WRITING OF REGULATIONS UNDER
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THE AMENDED EXPORT ADMINISTRATION ACT AND AN ADDITIONAL 120 DAYS ARE THEN PROVIDED BEFORE SUCH REGULATIONS TAKE EFFECT. A "GRANDFATHER" CLAUSE WILL PROTECT CONTRACTS IN EFFECT ON MAY 16, 1977 FOR A PERIOD OF UP TO TWO AND A HALF YEARS. THESE TIMING PROVISIONS WILL FACILITATE NEEDED ADJUSTMENTS IN BUSINESS PRACTICES BY U.S. FIRMS.

U.S. FIRMS MAY CONTINUE TO RESPECT THE PROHIBITION OF BOYCOTTING COUNTRIES AGAINST THE ADMISSION OF GOODS OR SERVICES SUPPLIED BY BOYCOTTED COUNTRIES OR THEIR NATIONALS THOUGH U.S. FIRMS WILL BE REQUIRED AFTER ONE YEAR TO STOP MAKING CERTIFICATIONS TO THE EFFECT THAT

GOODS OR SERVICES ARE NOT OF BOYCOTTED COUNTRY ORIGIN. POSITIVE CERTIFICATES OF COUNTRY ORIGIN, LIKE OTHER TYPES OF NORMAL COMMERCIAL DOCUMENTATION, WILL BE USABLE.

U.S. FIRMS WILL BE ABLE TO CONTINUE TO SUPPLY ALL NORMAL COMMERCIAL INFORMATION REQUESTED IN A NORMAL COMMERCIAL SETTING; THEY WILL BE UNABLE, HOWEVER, TO FURNISH INFORMATION ABOUT RELATIONSHIPS SPECIFICALLY WITH BOYCOTTED COUNTRIES OR BLACKLISTED FIRMS, IN RESPONSE TO BOYCOTT-RELATED INQUIRIES.

U.S. FIRMS WILL GENERALLY BE ABLE TO FILL ORDERS FOR SPECIFIC IDENTIFIABLE GOODS OR SERVICES WITHOUT REGARD FOR A BUYER'S MOTIVATION IN SELECTING COMPONENTS OR SUBCONTRACTORS BUT A U.S. SUPPLIER WILL NOT BE ALLOWED TO ENGAGE IN BOYCOTT-RELATED SELECTIONS OF NON-BLACKLISTED PARTICIPANTS IN COMMERCIAL TRANSACTIONS.

U.S. FIRMS OPERATING A BUSINESS IN A BOYCOTTING COUNTRY WILL BE ABLE TO COMPLY GENERALLY WITH THE LAWS OF THAT COUNTRY AS TO ACTIVITIES EXCLUSIVELY WITHIN THAT COUNTRY. THESE FIRMS ALSO SHOULD BE IN A POSITION TO COMPLY GENERALLY WITH IMPORT RESTRICTIONS OF THAT COUNTRY AS TO GOODS IMPORTED FOR THEIR OWN USE THOUGH THEY CONFIDENTIAL

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COULD NOT MAKE BOYCOTT-RELATED SELECTIONS IF THEY WERE IMPORTING SUCH GOODS FOR RESALE.

U.S. FIRMS MAY CONTINUE TO COMPLY WITH REQUIREMENTS THAT EXPORTS FROM BOYCOTTING COUNTRIES NOT BE SHIPPED OR TRANSSHIPPED TO BOYCOTTED COUNTRIES OR TO THEIR NATIONALS.

U.S. FIRMS ALSO WILL BE ABLE TO CONTINUE TO CERTIFY THAT GOODS WILL NOT BE SHIPPED VIA VESSELS OR PORTS OF BOYCOTTED COUNTRIES.

U.S. FIRMS WILL BE PROHIBITED, HOWEVER, FROM JOINING IN A BOYCOTT OF A BLACKLISTED FIRM OR A COUNTRY WITH WHICH THE UNITED STATES HAS FRIENDLY RELATIONS.

U.S. BANKS WILL BE ABLE TO PROCESS LETTERS OF CREDIT CONTAINING CONDITIONS CONSISTENT WITH THE PROVISIONS OF THE NEW LEGISLATION. BUT BANKS AND OTHER U.S. FIRMS WILL NOT BE ABLE TO ENGAGE IN TRANSACTIONS WHICH INVOLVE CONDITIONS OR AGREEMENTS REQUIRING ACTIONS BARRED BY THE NEW LAW.

THE LEGISLATION APPLIES TO U.S. FIRMS AND THEIR CONTROLLED FOREIGN SUBSIDIARIES OR AFFILIATES WITH RESPECT TO ACTIVITIES IN THE INTERSTATE OR FOREIGN COMMERCE OF THE UNITED STATES. END STATEMENT.

7. FOR ALGIERS, KHARTOUM, MOGADISCIO, NOUAKCHOTT, RABAT AND TUNIS: WHILE RECOGNIZING THAT COUNTRIES IN QUESTION ARE NOT ENGAGED IN SECONDARY BOYCOTT ACTIVITIES DIRECTED AGAINST U.S. FIRMS, WE WOULD LIKE YOU TO USE SUITABLE OCCASIONS TO EXPLAIN U.S. LEGISLATION AND TO SEEK HOST COUNTRY EFFORTS TO JOIN WITH OTHER MODERATE ARAB STATES IN ENSURING NON-CONFRONTATIONAL RESPONSE BY ARAB LEAGUE MEMBERS TO NEW U.S. LEGISLATION.

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8. FOR JIDDA, CAIRO, DAMASCUS, BAGHDAD, ABU DHABI AND KUWAIT: WE ARE CONSIDERING SENDING STATE-COMMERCE DELEGATION TO MIDDLE EAST THIS FALL TO EXPLAIN DRAFT REGULATIONS AND OTHER ASPECTS OF U.S. IMPLEMENTATION OF THE NEW LAW. REQUEST COMMENTS ON NEED/USEFULNESS OF SENDING SUCH DELEGATION TO BRIEF EMBASSIES (PERHAPS REGIONAL CONFERENCE) AND MEET WITH GOVERNMENT OFFICIALS (AND POSSIBLY WITH LOCAL BUSINESS GROUPS).

9. REQUESTED REPRESENTATIONS SHOULD AWAIT NOTIFICATION OF SIGNING OF NEW LEGISLATION BUT BE MADE PROMPTLY THEREAFTER. VANCE

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ORIGIN NEA-10

INFO OCT-01 ISO-00 /011 R

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DRAFTED BY: NEA/RA:DTMORRISON

APPROVED BY: NEA/RA:SEPALMER

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FM SECSTATE WASHDC

TO AMEMBASSY CAIRO

C O N F I D E N T I A L STATE 142390

FOLLOWING REPEAT STATE 142390 SENT ACTION ABU DHABI, AMMAN, BEIRUT, DAMASCUS, DOHA, JIDDA, KHARTOUM, KUWAIT, MANAMA, MUSCAT, SANA, TRIPOLI, BAGHDAD INFO ALGIERS, RABAT, TUNIS, MOGADISCIO, NOUAKCHOTT, BONN, LONDON, OTTAWA, TOKYO, PARIS, ROME, USUN NEW YORK, ALEXANDRIA, DHAHRAN, ATHENS, TEL AVIV, BRUSSELS 18 JUN 77

QUOTE C O N F I D E N T I A L STATE 142390

USEEC, USOECD & EMB

E.O. 11652: GDS

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CONFIDENTIAL

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6. BEGIN STATEMENT: U.S. EXPORT ADMINISTRATION ACT PROVISIONS RELATING TO FOREIGN BOYCOTT PRACTICES

FACED WITH LEGISLATIVE BILLS WHICH IN SOME RESPECTS CONFRONTED THE EXERCISE OF RIGHTS BY FOREIGN COUNTRIES TO REGULATE THEIR OWN EXPORTS AND IMPORTS, THE ADMINISTRATION HAS WORKED CLOSELY WITH THE CONGRESS, THE AMERICAN BUSINESS COMMUNITY AND OTHER INTERESTED GROUPS ON BEHALF OF A CONSENSUS SUPPORTING CAREFULLY DIRECTED, NON-CONFRONTATIONAL LEGISLATION. THE RESULTING COMPROMISE SEEKS TO CURB THE

INTRUSIONS OF FOREIGN BOYCOTT PRACTICES INTO U.S. COMMERCE, ESPE-IALLY OF THOSE SECONDARY BOYCOTT PRACTICES WHICH WOULD PREVENT A U.S. FIRM FROM DEALING WITH ANOTHER FIRM OR WITH A THIRD COUNTRY WITH WHICH THE UNITED STATES HAS FRIENDLY RELATIONS. THE NEW LEGISLATION APPLIES TO FOREIGN BOYCOTT PRACTICES GENERALLY AS THEY AFFECT U.S. COMMERCE, AND IS NOT DIRECTED AGAINST ANY SPECIFIC COUNTRY OR GROUP OF COUNTRIES.

THE BROAD-BASED SUPPORT IN THE UNITED STATES FOR THE NEW LEGISLATION IS REFLECTED IN THE OVERWHELMING BACKING GIVEN TO THE EXPORT ADMINISTRATION ACT BY THE U.S. SENATE AND HOUSE OF REPRESENTATIVES.

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IN GENERAL, U.S. FIRMS WILL BE REMOVED FROM ANY ACTIVE ROLE AS TO THE ENFORCEMENT OF FOREIGN BOYCOTTS DIRECTED AGAINST COUNTRIES WITH WHICH WE MAINTAIN FRIENDLY RELATIONS.

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U.S. FIRMS MAY CONTINUE TO RESPECT THE PROHIBITION OF BOYCOTTING COUNTRIES AGAINST THE ADMISSION OF GOODS OR SERVICES SUPPLIED BY BOYCOTTED COUNTRIES OR THEIR NATIONALS THOUGH U.S. FIRMS WILL BE REQUIRED AFTER ONE YEAR TO STOP MAKING CERTIFICATIONS TO THE EFFECT THAT GOODS OR SERVICES ARE NOT OF BOYCOTTED COUNTRY ORIGIN. POSITIVE CERTIFICATES OF COUNTRY ORIGIN, LIKE OTHER TYPES OF NORMAL COMMERCIAL DOCUMENTATION, WILL BE USABLE.

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UNQUOTE VANCE

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<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: X
Capture Date: 22-Sep-1999 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: BOYCOTTS, LEGISLATIVE BILLS
Control Number: n/a
Copy: SINGLE
Sent Date: 18-Jun-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE142390
Document Source: ADS
Document Unique ID: 00
Drafter: NEA/RA:DTMORRISON:BDF
Enclosure: n/a
Executive Order: 11652 GDS
Errors: n/a
Expiration:
Film Number: D770218-1200
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t197706110/baaaetau.tel
Line Count: 569
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Litigation History:
Locator: TEXT ON-LINE, TEXT ON MICROFILM
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Office: ORIGIN NEA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 11
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: A) STATE 43693; B) STATE 80062; C) STATE 86310
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 12-Nov-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2012855
Secure: OPEN
Status: NATIVE
Subject: ARAB BOYCOTT: FURTHER REPRESENTATIONS CONCERNING U.S. ANTI-BOYCOTT LEGISLATION
TAGS: ETRD, PFOR, XF
To: ABU DHABI AMMAN MULTIPLE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/f51d9e73-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009